IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 6TH JUNE 2007 / 16TH JYAISHTA 1929

WP(C).No. 31533 of 2005(D)

AGAINST THE ORDER DATED 30/09/2005 IN IA.1167/2005 IN OS.218/2004 of III ADDL.SUB COURT, KOZHIKODE.

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PETITIONER:

PERAVAN, S/O.APPU,
"APPUS", POOLOTTUMMAL,
MADAVOOR AMSOM AND DESOM,
KOZHIKODE TALUK.

BY ADV. SRI.P.R.SREEJITH.

RESPONDENT:

P.SUDHESH, S/O.RAMAN,
SURABHI, VELIPRAM AMSOM AND DESOM,
RAMANATTUKARA,
KOZHIKODE.

BY ADV. SRI.R.RAMADAS.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/06/2007,HE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.31533/2005:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: I.A. NO. 1167/2005 DTD. 17/03/2005 TO SEND THE PROMISORY NOTE FOR EXPERT OPINION.

EXT.P.2: COPY OF THE ORDER IN I.A. NO. 1167/2005 DTD. 30/09/2005 OF THE IIIRD ADDITIONAL SUB JUDGE, KOZHIKODE.

//TRUE COPY//

prv.

M.N.KRISHNAN, J

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W.P.(C) No.31533 OF 2005

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Dated this the 6th day of June, 2007

JUDGMENT

This writ petition is filed to quash the order in I.A.No.1167 of 2005 in O.S.No.218 of 2004 of the III Addl.Sub Court, Thodupuzha. The suit is one for realisation of the amount on the basis of a promissory note. The defendant had denied the execution of the promissory note. The defendant moved an application before the court below to send the document for comparing the signature or in other words he wants an expert's evidence in the matter. The trial court, though agreed in principle that it is a relevant piece of evidence non-suited the defendant on the ground that that stage has not come and there can be an attempt to have direct evidence on the matter. It may not be correct to proceed in a piece meal fashion in the trial of a case. Parties are having opportunity to move applications and attempt to adduce the best form of evidence which will suit their defence of the plaint. When the defendant has categorically denied the execution of the promissory note and disputed his signature in the suit document and wants the disputed signature to be compared with the genuine signature I feel such an

opportunity has to be given to the party by allowing that application.

Therefore the order under challenge is set aside and I.A.No.1167 of 2005 is allowed and the III Addl.Sub Court, Kozhikode is directed to send the disputed document for comparison of signature with the admitted signature in accordance with law.

Registry is directed to send a copy of this judgment to the III Addl.Sub Court, Kozhikode for compliance.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-